

# HOUSE . . . . . No. 1447

By Mr. Kennedy of Brockton, petition of Thomas P. Kennedy and others relative to consumer protection and radio frequency identification systems. Consumer Protection and Professional Licensure.

## The Commonwealth of Massachusetts

### PETITION OF:

Thomas P. Kennedy	Michael E. Festa
Jarrett T. Barrios	Bruce E. Tarr
Andrea F. Nuciforo, Jr.	Timothy J. Toomey, Jr.
Pamela P. Resor	Carl M. Sciortino, Jr.
Christopher G. Fallon	Gloria L. Fox
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Frank I. Smizik	Michael A. Costello
Matthew C. Patrick	John W. Scibak

In the Year Two Thousand and Five.

### AN ACT RELATIVE TO CONSUMER PROTECTION AND RADIO FREQUENCY IDENTIFICATION SYSTEMS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 104 of chapter 93 of the General Laws, as  
2 appearing in the 2002 Official Edition, is hereby amended by  
3 striking out, in lines 1 and 2, the words “section one hundred and  
4 five” an inserting in place thereof the following words:—  
5 sections 105 and 105A.

1 SECTION 2. Said section 104 of said chapter 93, as so  
2 appearing, is hereby further amended by inserting after the defini-  
3 tion of “Credit Card” the following 4 definitions:—  
4 “Personally identifiable information,” information that can be  
5 used to uniquely identify a person including, but not limited to,  
6 name, address, credit card information, or telephone number.

7 “Radio frequency identification” or “RFID”, a technology that  
8 incorporates the use of electromagnetic or electrostatic coupling  
9 in the radio frequency portion of the electromagnetic spectrum  
10 and that can be used to identify an object, animal, or person.

11 “Radio frequency identification reader” or “RFID reader”, an  
12 electronic device capable of reading, activating, triggering, or  
13 receiving information or data from a radio frequency identifica-  
14 tion tag.

15 “Radio frequency identification system” or “RFID system”, a  
16 combination of electronic and other devices including, but not  
17 limited to, RFID readers, tags, transmitters, processors, antennae,  
18 computers, visual displays and automated checkout systems,  
19 which enable the owner or user of the devices to track, monitor,  
20 record, identify, process, charge for, surveil, read, encode, decode,  
21 or disable a radio frequency identification tag.

22 “Radio frequency identification tag” or “RFID tag”, an elec-  
23 tronic identifier comprised of electronic tags, electronic product  
24 codes, electronic chips, circuits or other triggering devices which  
25 contain identification information, data signals or other informa-  
26 tion related to the product, manufacturer, contents, serial number,  
27 date, purchaser, seller, destination, origin, package, carton, mate-  
28 rial, object or person to which it is attached, embedded or associ-  
29 ated, and which information or data is capable of being wirelessly  
30 transmitted to or read by an RFID reader or system.

1 SECTION 3. Said chapter 93 is hereby amended by inserting  
2 after section 105, as so appearing, the following section:—

3 Section 105A. (a) A commercial entity that uses an RFID  
4 system in their normal course of commerce that includes readers  
5 placed in the customer shopping area, shall display a sign placed  
6 in a conspicuous location printed in a conspicuous type size, in  
7 contrast with the background against which it appears. The sign  
8 shall be readable by a consumer before the consumer comes in  
9 contact with the RFID system. The sign shall state that: (1) the  
10 store uses radio frequency identification technology; (2) the radio  
11 frequency identification tag contains information about the  
12 product that can be accessed by a reader both before and after the  
13 purchase; and (3) a description of the purpose of the readers.

14 (b) Any product that utilizes an RFID tag shall contain a logo  
15 or identifier on the product or packaging, and a label placed in a  
16 conspicuous location and printed in a conspicuous type size, in  
17 contrast with the background against which it appears. The label  
18 shall state that: (1) the product contains a radio frequency identifi-  
19 cation tag; and (2) the radio frequency identification tag contains  
20 information about the product that can be accessed by a reader  
21 both before and after the purchase.

22 (c) RFID tags that are not components essential to the tagged  
23 item's operation shall be attached in such a way as to allow indi-  
24 viduals to remove the tag after the item has been purchased  
25 without damaging the item.

26 (d) An RFID reader or system used by a commercial entity in  
27 their normal course of commerce shall only store, encode or track  
28 RFID tags attached to an item listed in the inventory of that com-  
29 mercial entity as un-purchased, except in cases of product returns,  
30 product recalls or for warranty purposes.

1 SECTION 4. The attorney general shall promulgate regulations  
2 necessary to carry out this act.